

Introduced by Senator Denham
(Principal coauthor: Assembly Member Cogdill)

December 20, 2002

An act to amend Sections 12811 and 13005 of the Vehicle Code, relating to organ and tissue donation.

LEGISLATIVE COUNSEL'S DIGEST

SB 38, as introduced, Denham. Organ and tissue donation: donations to incarcerated persons.

Existing law contains provisions known as the Uniform Anatomical Gift Act and the Organ and Tissue Donor Registry Act of 2001. Related provisions of existing law require the Department of Motor Vehicles to provide forms and other information related to these acts, in connection with the issuance of a license or identification card, as specified.

This bill would require these forms provided by the department relating to organ and tissue donation to include a provision allowing the donor to indicate whether he or she desires to prohibit a donation to any person who is incarcerated in state prison or a county jail.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 12811 of the Vehicle Code, as amended
- 2 by Section 218 of Chapter 664 of the Statutes of 2002, is amended
- 3 to read:
- 4 12811. (a) (1) When the department determines that the
- 5 applicant is lawfully entitled to a license, it shall issue to the person
- 6 a driver's license as applied for. The license shall state the class of

1 license for which the licensee has qualified and shall contain the
2 distinguishing number assigned to the applicant, the date of
3 expiration, the true full name, age, and mailing address of the
4 licensee, a brief description and engraved picture or photograph of
5 the licensee for the purpose of identification, and space for the
6 signature of the licensee.

7 Each license shall also contain a space for the endorsement of
8 a record of each suspension or revocation thereof.

9 The department shall use whatever process or processes, in the
10 issuance of engraved or colored licenses, that prohibit, as near as
11 possible, the ability to alter or reproduce the license, or prohibit the
12 ability to superimpose a picture or photograph on the license
13 without ready detection.

14 (2) In addition to the requirements of paragraph (1), a license
15 issued to a person under 18 years of age shall display the words
16 “provisional until age 18.”

17 (b) The department shall provide a form that, when completed,
18 may be carried with the license, by which the licensee may indicate
19 his or her willingness and intent to make an anatomical gift,
20 including the gift of a pacemaker, or his or her refusal to make an
21 anatomical gift pursuant to Section 7150.5 of the Health and
22 Safety Code, and, if applicable, the date that a pacemaker was
23 implanted. The form shall be designed to obtain information
24 sufficient to identify the nature of the anatomical gift and shall
25 include, but not be limited to, all of the following:

26 (1) A space for the signature of the potential donor.

27 (2) A space for the signature of one or more witnesses, which
28 should include the spouse, parent, or adult child of the donor or any
29 other next of kin.

30 (3) A statement sufficient in its terms to meet the requirements
31 of the Uniform Anatomical Gift Act (Chapter 3.5 (commencing
32 with Section 7150) of Part 1 of Division 7 of the Health and Safety
33 Code).

34 (4) A space for the donor to indicate whether the donor desires
35 to donate tissues or organs, or both, or the donor’s entire body for
36 the purpose of transplantation or medical research, or both.

37 (5) *A space for the donor to indicate whether the donor desires*
38 *to prohibit a donation to any person who is incarcerated in state*
39 *prison or a county jail.*



(6) Text informing the donor that the form is a legally binding document, which shall remain binding after death despite any expressed desires of next of kin opposed to the donation.

~~(6)~~

(7) Text requiring the donor to discuss the decision to donate with family, friends, or any other person who might be directly affected by the donation, particularly those next of kin who might object to the decision and a space for the donor's initials to acknowledge that it is the donor's responsibility to comply with this requirement.

~~(7)~~

(8) Text informing the donor that rescission of the decision to donate shall require the completion of a new form and the removal of the sticker described in Section 1672.5 from the driver's license or identification card.

(c) (1) The statement required under paragraph (3) of subdivision (b) shall not be deemed to be effective unless both of the following conditions have been met:

(A) The statement is signed by the licensee.

(B) The licensee is 18 years of age or older at the time of signing.

(2) If the licensee cannot sign, the statement may be signed for the licensee, at his or her direction and in his or her presence, in the presence of two witnesses who shall sign the statement in his or her presence.

(d) The department shall present the form provided under subdivision (b), and explain its use, to each applicant for a license or license renewal.

(e) The anatomical gift shall become effective upon the death of the licensee.

(f) No public entity or employee is liable for any loss, detriment, or injury resulting directly or indirectly from false or inaccurate information contained in the form provided pursuant to subdivision (b).

(g) No contract may be let to any nongovernmental entity for the processing of driver's licenses, unless the department receives two or more qualified bids from independent, responsible bidders.

(h) This section shall become inoperative on the date the Director of Finance makes the determination described in subdivision (d) of Section 7152.7 of the Health and Safety Code.

1 SEC. 2. Section 12811 of the Vehicle Code, as amended by
2 Section 5.5 of Chapter 740 of the Statutes of 2001, is amended to
3 read:

4 12811. (a) (1) When the department determines that the
5 applicant is lawfully entitled to a license, it shall issue to the person
6 a driver's license as applied for. The license shall state the class of
7 license for which the licensee has qualified and shall contain the
8 distinguishing number assigned to the applicant, the date of
9 expiration, the true full name, age, and mailing address of the
10 licensee, a brief description and engraved picture or photograph of
11 the licensee for the purpose of identification, and space for the
12 signature of the licensee.

13 Each license shall also contain a space for the endorsement of
14 a record of each suspension or revocation thereof.

15 The department shall use whatever process or processes, in the
16 issuance of engraved or colored licenses, that prohibit, as near as
17 possible, the ability to alter or reproduce the license, or prohibit the
18 ability to superimpose a picture or photograph on the license
19 without ready detection.

20 (2) In addition to the requirements of paragraph (1), a license
21 issued to a person under 18 years of age shall display the words
22 "provisional until age 18."

23 (b) (1) Upon issuance of a new driver's license or a renewal of
24 a driver's license or the issuance of an identification card, the
25 department shall provide information on organ and tissue
26 donation, including a standardized form to be filled out by an
27 individual who desires to enroll in the Organ and Tissue Donor
28 Registry with instructions for mailing the completed form to the
29 California Health and Human Services Agency, including a donor
30 dot that may be affixed to the new driver's license or identification
31 card.

32 (2) The enrollment form shall be simple in design and shall be
33 produced by the department in cooperation with the California
34 Health and Human Services Agency and shall require all of the
35 following information to be supplied by an enrollee:

36 (A) Date of birth, sex, full name, and other information deemed
37 necessary to provide a positive identification of an individual.

38 (B) Consent for organs or tissues to be donated for transplant
39 after death.

40 (C) Any limitation of the donation to specific organs or tissues.



1 (D) *A space for the donor to indicate whether the donor desires*
2 *to prohibit a donation to any person who is incarcerated in state*
3 *prison or a county jail.*

4 (3) The form shall also include both of the following:

5 (A) A description of the process for having a name removed
6 from the registry, and the process for donating money to the Organ
7 and Tissue Donor Registry Fund.

8 (B) A statement that the name of any person who enrolls in the
9 registry pursuant to this section shall be made available to
10 federally recognized donor organizations.

11 (4) The registry enrollment form shall be posted on the Web
12 sites for the department and the agency.

13 (5) The form shall constitute a legal document under the
14 Uniform Anatomical Gift Act (Chapter 3.5 (commencing with
15 Section 7150) of Part 1 of Division 7 of the Health and Safety
16 Code) and shall remain binding after the donor's death despite any
17 express desires of next of kin opposed to the donation.

18 (6) The agency shall ensure that all additions and deletions to
19 the registry shall occur within 30 days of receipt.

20 (7) Information obtained by the department for the purposes of
21 this subdivision shall be used for these purposes only and shall not
22 be disseminated further by the department or the California Health
23 and Human Services Agency.

24 (c) A public entity or employee shall not be liable for any loss,
25 detriment, or injury resulting directly or indirectly from false or
26 inaccurate information contained in the form provided pursuant to
27 subdivision (b).

28 (d) No contract may be let to any nongovernmental entity for
29 the processing of driver's licenses, unless the department receives
30 two or more qualified bids from independent, responsible bidders.

31 (e) This section shall become operative on the date the Director
32 of Finance makes the determination described in subdivision (d)
33 of Section 7152.7 of the Health and Safety Code.

34 SEC. 3. Section 13005 of the Vehicle Code, as amended by
35 Section 6.8 of Chapter 740 of the Statutes of 2001, is amended to
36 read:

37 13005. (a) The identification card shall resemble in
38 appearance, so far as is practicable, a driver's license issued
39 pursuant to this code. It shall adequately describe the applicant,
40 bear his or her picture, and be produced in color or engraved by a

1 process or processes that prohibit as near as possible, the ability to
2 alter or reproduce the identification card, or prohibit the ability to
3 superimpose a picture or photograph on the identification card
4 without ready detection.

5 (b) (1) Upon issuance of a new identification card, or renewal
6 of an identification card, the department shall provide information
7 on organ and tissue donation, including a standardized form to be
8 filled out by an individual who desires to enroll in the Organ and
9 Tissue Donor Registry with instructions for mailing the completed
10 form to the California Health and Human Services Agency.

11 (2) The enrollment form shall be simple in design and shall be
12 produced by the department, in cooperation with the California
13 Health and Human Services Agency, and shall require all of the
14 following information to be supplied by the enrollee:

15 (A) Date of birth, sex, full name, address, and home telephone
16 number.

17 (B) Consent for organs or tissues to be donated for transplant
18 after death.

19 (C) Any limitation of the donation to specific organs or tissues.

20 (D) *An indication whether the donor desires to prohibit a*
21 *donation to any person who is incarcerated in state prison or a*
22 *county jail.*

23 (3) The form shall also include a description of the process for
24 having a name removed from the registry, and the process for
25 donating money to the Organ and Tissue Donor Registry Fund.

26 (4) The registry enrollment form shall be posted on the Web
27 sites for the department and the California Health and Human
28 Services Agency.

29 (5) The form shall constitute a legal document under the
30 Uniform Anatomical Gift Act (Chapter 3.5 (commencing with
31 Section 7150) of Part 1 of Division 7 of the Health and Safety
32 Code).

33 (6) The agency shall ensure that all additions and deletions to
34 the registry shall occur within 30 days of receipt.

35 (7) Information obtained by the department for the purposes of
36 this subdivision shall be used for these purposes only and shall not
37 further be disseminated by the department or the California Health
38 and Human Services Agency.

39 (c) No contract may be let to any nongovernmental entity for
40 the processing of identification cards unless the department

- 1 receives two or more qualified bids from independent, responsible
- 2 bidders.
- 3 (d) This section shall become operative on the date the Director
- 4 of Finance makes the determination described in subdivision (d)
- 5 of Section 7152.7 of the Health and Safety Code.

